

**In The Matter Of:**

*STEPSKI v.  
THE M/V NORASIA*

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*KIRSTEN STEPSKI  
April 12, 2007*

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April 12, 2007**

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[1] UNITED STATES DISTRICT COURT  
[2] SOUTHERN DISTRICT OF NEW YORK  
[3]  
[4] MICHAEL STEPSKI, KIRSTEN  
STEPSKI, Wife, GEAL  
[5] RODERICK and BENJAMIN  
SCHOBER,  
[6]  
Plaintiffs,  
[7]  
-versus- : No. 06 CV 01695  
[8] (CM)  
The M/V NORASIA ALYA, her  
[9] owners, operators, etc., VOL. II  
and MS "ALENA"  
[10] SCHIFFFAHRTSGESELLSCHAFT  
mbH & CO. KG, PETER  
[11] DOEHLE SCHIFFFAHRTS-KG, :  
[12] Defendants. :  
[13]  
[14]  
[15] Continued deposition of KIRSTEN  
[16] STEPSKI, taken by Defendants at the law office of  
[17] Stevens, Harris, Guernsey & Quilliam, P.C., 351 Main  
[18] Street, Niantic, Connecticut, before Jacqueline  
[19] McCauley, RPR/CSR, a Notary Public in and for the  
[20] State of Connecticut, on April 12, 2007, at 10:39 a.m.  
[21]  
[22]  
[23]  
[24]  
[25]

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[20]  
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[22]  
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[1] KIRSTEN STEPSKI,  
 [2] 140 Four Mile River Road, Old Lyme, Connecticut,  
 [3] called as a witness, having been first duly  
 [4] sworn by Jacqueline M. McCauley, a Notary  
 [5] Public in and for the State of Connecticut,  
 [6] was examined and testified as follows:  
 [7] (Defendant's Exhibits 32 through 36,  
 [8] marked for identification.)

[9] **MR. HEALEY:** Read and sign.

[10] **MR. WEIGEL:** This is a continuation  
 [11] under oath.

[12] **MR. HEALEY:** Yes. You're under  
 [13] oath. Do you understand?

[14] **A:** Yes.

[15] **DIRECT EXAMINATION CONTINUED**

[16] **BY MR. WEIGEL:**

[17] **Q:** While we were waiting we pre-marked some  
 [18] exhibits and I'll just have her identify those and  
 [19] then we'll start. I'll put before you an exhibit,  
 [20] which we've marked as 32, and it's a single page  
 [21] document. If you tell me if you've ever seen that  
 [22] document before?

[23] **A:** No, I haven't.

[24] **Q:** Okay.

[25] **A:** I never saw that document before.

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[1] **Q:** I'm going to put another document in front  
 [2] of you, which we've marked as 33, and see if you've  
 [3] ever seen that document before.

[4] **A:** Yes.

[5] **Q:** Can you identify that document for us,  
 [6] please?

[7] **A:** It's a copy of a check that we wrote to  
 [8] the marine surveyor, I believe.

[9] **Q:** And the date of that check is March 31,  
 [10] 2003?

[11] **A:** Yes.

[12] **Q:** When you say marine surveyor, is that the  
 [13] marine surveyor who did the surveyor of the Ava Claire  
 [14] when Michael Stepski was preparing to purchase it?

[15] **A:** Yes.

[16] **Q:** Another document which we've marked as  
 [17] Exhibit 34, and ask you have you ever seen that  
 [18] document before?

[19] **A:** Yes.

[20] **Q:** Would you identify that — for the record  
 [21] that's a document as a bundle and it is —

[22] **MR. HEALEY:** Look at them all.

[23] **Q:** It is 12 pages.

[24] **A:** I'm not sure if anything is missing, but  
 [25] it looks like it's all of the licenses and permits

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[1] that Michael holds and the different boats hold.

[2] **Q:** Okay.

[3] **A:** Is it all the boats? It looks like it is,  
 [4] for 2004 and 2006.

[5] **Q:** If you flip the document over, I'm sorry,  
 [6] 180 degrees, and you'll see there is a fax information  
 [7] line there. It says 860 area code, phone number, and  
 [8] Niantic Fish, LLC. Is that the —

[9] **A:** That's our farm number for the house we  
 [10] lived in that we moved out of in '03, so that means my  
 [11] fax machine is still printing that out by error.

[12] Maybe I should fix my fax machine.

[13] **Q:** This has a date of January 4. Is that  
 [14] January 4, 2007 or is it April 1, 2007?

[15] **A:** I would assume it would be January 4. I  
 [16] know that you requested these documents in January.

[17] **Q:** And you have a recollection of sending  
 [18] these documents to someone in January of —

[19] **A:** It definitely wasn't April.

[20] **Q:** It definitely was not April?

[21] **A:** Definitely it was not April 1, and like I  
 [22] said, it must have our old phone number as the tag  
 [23] line, but it shouldn't have come from that phone  
 [24] number. It would not have originated from that phone  
 [25] number.

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[1] **Q:** I'm going to show you a document which  
 [2] we've marked as Exhibit 35, and ask you have you seen  
 [3] that document before?

[4] **A:** Yes.

[5] **Q:** Could you identify that document for us?

[6] **A:** These are the data —

[7] **MR. HEALEY:** Look through them all.

[8] **A:** These are the data sheets we received from  
 [9] National Marine Fisheries Service on vessel trip  
 [10] reports.

[11] **Q:** And for the record I'll note that this  
 [12] document, which we have marked as Exhibit 35, is in  
 [13] fact a 4-page bundle of documents. Now, you said that  
 [14] this was information you had received from the  
 [15] National Marine Fisheries Service on the vessel trip  
 [16] reports?

[17] **A:** Yes.

[18] **Q:** It's dated January 11, 2007; is that  
 [19] correct? Is that your understanding of the date?

[20] **A:** Yes.

[21] **Q:** Can you tell us how did you come about  
 [22] that you received this document?

[23] **A:** There's a trip report department at the  
 [24] National Marine Fisheries Service Department that I  
 [25] called, and requested in writing — we had to fax them

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[1] a written request, and then they mailed these to us.  
[2] **Q:** You sent a written request to the National  
[3] Marine Fisheries Service. Where did you send that?  
[4] **A:** In Gloucester, Massachusetts.  
[5] **Q:** And in response you got these four pages  
[6] back?  
[7] **A:** Yes.  
[8] **Q:** Is this the entire bundle of documents,  
[9] all four pages that you got back from the National  
[10] Marine Fisheries Service?  
[11] **A:** I believe so. It looks complete. I  
[12] didn't bring my originals with me so this looks  
[13] complete, because we just asked for the history from  
[14] the year 2000 and up on the four different boats.  
[15] **Q:** And how did you have to — do you have a  
[16] copy of the fax that you sent to the National Marine  
[17] Fisheries Service?  
[18] **A:** I probably do. I'm not sure.  
[19] **Q:** I am going to ask that you provide a copy  
[20] of that to your attorney so he can produce it to us.  
[21] **MR. HEALEY:** We got it? Yeah.  
[22] **A:** It's actually a form that they asked us to  
[23] fill out and fax back.  
[24] **MR. HEALEY:** That's what we are  
[25] talking about.

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[1] **MR. WEIGEL:** That's fine with me.  
[2] **MR. HEALEY:** That's right. Now, off  
[3] the record.  
[4] (Whereupon, there was a discussion  
[5] off the record.)  
[6] **Q:** And when you got this bundle of four pages  
[7] from the National Marine Fisheries Service, did it  
[8] come with a cover letter?  
[9] **A:** I'm not sure. I can't remember.  
[10] **Q:** Well, if it did come with a cover letter,  
[11] please provide that to your attorney as well so it can  
[12] be produced to us. I'm going to show you one last  
[13] document, which we marked as Exhibit 36, and I ask you  
[14] do you recognize that document?  
[15] **A:** Yes.  
[16] **Q:** Could you just tell us what this document  
[17] is?  
[18] **A:** This is from the Connecticut Department of  
[19] Environmental Protection data on Michael's landings  
[20] for his vessels from 2000 and — I believe I requested  
[21] 2003 through 2006.  
[22] **Q:** The first couple of pages we have been  
[23] provided with, the top is cutoff, and then I think you  
[24] have to go about 3 pages in before the title of the  
[25] document is apparent.

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[1] **A:** It was probably due to my fax machine.  
[2] **Q:** I don't actually see any fax header on  
[3] this particular document, so is it your understanding  
[4] that this document was faxed to someone after you  
[5] received it?  
[6] **A:** I believe I faxed it to Attorney Healey.  
[7] **Q:** Now —  
[8] **A:** Probably with a cover letter.  
[9] **Q:** If you go down the second page, and then  
[10] again to the fourth page, there's a date and time  
[11] printed on actually the third page, yes. The second  
[12] and fourth page there is a date and time printed on  
[13] here and it says 8:49, Thursday, January 18, 2007. Do  
[14] you recall when you received this document from the  
[15] Connecticut Department of Environmental Protection?  
[16] **A:** No. There was quite a holdup on it. I  
[17] ended up driving there and picking it up, and then  
[18] they also sent it to me in the mail several days after  
[19] that, so I ended up getting two copies of it.  
[20] **Q:** Where did you drive to?  
[21] **A:** It's in Old Lyme. They have a station.  
[22] **Q:** How did you make the original request to  
[23] them for —  
[24] **A:** That was also by fax and with Michael's  
[25] signature requesting.

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[1] **Q:** Did you have to fill out a form for them  
[2] as well or it was just a cover letter?  
[3] **A:** I believe that was just a cover letter,  
[4] yeah.  
[5] **Q:** You have a copy of the letter you sent to  
[6] them requesting —  
[7] **A:** I'm not sure.  
[8] **MR. HEALEY:** Who is this now? Which  
[9] government agent did I —  
[10] **A:** DEP.  
[11] **Q:** Connecticut Department of Environmental  
[12] Protection. Is it your understanding that data on the  
[13] catches is reported to one central location, and then  
[14] collected by government agencies or does Michael have  
[15] to make a report on both the National Marine Fisheries  
[16] and DEP?  
[17] **A:** He makes separate reports to the state and  
[18] the federal.  
[19] **Q:** If we were —  
[20] **A:** I don't believe they share information.  
[21] **Q:** If we were to compare Exhibit 35 and  
[22] Exhibit 36, though, we should be able to — the  
[23] numbers should match up?  
[24] **A:** They should overlap, yeah.  
[25] **Q:** He reports the same information to both

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[1] services; is that correct?

[2] **A:** Except for if he lands out-of-state. If  
[3] he lands — it wouldn't apply to the Connecticut DEP  
[4] if he lands out of state.

[5] **Q:** If he lands something in Massachusetts,  
[6] for example, that doesn't get reported to Connecticut?

[7] **A:** That's right.

[8] **Q:** So there's a possibility that the — but  
[9] that does get reported to the National Marine  
[10] Fisheries Service?

[11] **A:** That's right.

[12] **Q:** So there would be a possibility that the  
[13] information that the National Marine Fisheries  
[14] Service, they might have higher totals than we could  
[15] calculate using the DEP information. The Exhibit 35  
[16] information includes those Connecticut and  
[17] Massachusetts, correct?

[18] **A:** That's correct.

[19] **Q:** Does Michael land fish in Rhode Island?

[20] **A:** No, not Rhode Island.

[21] **Q:** Does he land fish in New York?

[22] **A:** Not in New York.

[23] **Q:** Are there any other states that you are  
[24] aware of that he fishes in and lands fish?

[25] **A:** New Jersey.

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[1] **Q:** When has he landed in New Jersey?

[2] **A:** Every January and part of February for the  
[3] last 3 or 4 years.

[4] **Q:** So then your understanding is that the  
[5] National Marine Fisheries Service data includes New  
[6] Jersey, Connecticut and Massachusetts. Those are the  
[7] three states he lands fish in?

[8] **A:** Yes. It would include all. They keep  
[9] track of all his days used on his permit.

[10] **Q:** Now, does Michael also have to report to  
[11] the local, the state DEPs for environmental, whatever  
[12] the environmental agencies are for those other states  
[13] besides Connecticut?

[14] **A:** Yes.

[15] **Q:** Do you have records showing his reports to  
[16] the Massachusetts Environmental Agency?

[17] **A:** I'm sorry, I misunderstood your question.  
[18] He does not send reports to them. He does have to  
[19] comply if they board him or if he sees any kind of an  
[20] officer, that kind of a thing.

[21] **Q:** So he sends reports to the federal  
[22] government?

[23] **A:** That's right.

[24] **Q:** And then the only state that he sends  
[25] reports to is the State of Connecticut; is that

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[1] correct?

[2] **A:** That's right.

[3] **Q:** Mrs. Stepski, I'm going to give you a  
[4] document which we've marked at prior depositions.  
[5] Probably marked at Michael's deposition in January as  
[6] Exhibit 27. Your prior testimony, I don't want to  
[7] mischaracterize it, but as I recall it, it was that  
[8] you prepared that document; is that correct?

[9] **A:** That's correct.

[10] **Q:** Now, I just want to go over a couple  
[11] things. Some of this we covered previously. I may  
[12] repeat a little bit, but I'm only trying to get it all  
[13] concisely stated in the record so I understand it so  
[14] I'm not trying to get — I'm not trying to get you to  
[15] give me an inconsistent answer from last time. I want  
[16] to know what the actual truth of the matter is with  
[17] regard to this document. So if there is a little  
[18] overlap, I'm trying to keep the overlap to a minimum.  
[19] Now, I understood your prior testimony to be that  
[20] projected lost income was calculated from the time of  
[21] the accident to May 1, 2005, because if I understood  
[22] correctly, the permit, the monkfishing permit runs  
[23] from May 1 to May 1; is that correct?

[24] **A:** That's correct.

[25] **Q:** Now, does that time period for the

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[1] projected lost income, does that apply to all three  
[2] categories of fishing that are on this projected lost  
[3] income statement or just to the monkfishing?

[4] **A:** All three.

[5] **Q:** Is there a permit required to fish for  
[6] bluefin tuna?

[7] **A:** Yes.

[8] **Q:** And does that permit also run from May 1  
[9] to May 1?

[10] **A:** I'm not sure, because we don't apply for  
[11] that until he's about ready to go, that season.

[12] **Q:** How about scalloping? Is there a permit  
[13] required for scalloping?

[14] **A:** Scalloping, it would be exactly as the  
[15] monk.

[16] **Q:** It runs the same period of time May 1 to

[17] **A:** Yes.

[18] **Q:** And I also think I recall your prior  
[19] testimony where you said that you assumed, for the  
[20] purposes of this projected lost income statement, that  
[21] Michael made no further trips after the accident.  
[22] Michael made no further trips after the accident.

[23] **A:** That's right.

[24] **Q:** In other words, it says he had 33 trips  
[25] left out of the 40 he was allotted for monkfishing,



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[1] and that you did not deduct from the projected lost  
[2] income the actual income he did earn after he got the  
[3] new boat; is that correct?

[4] A: That's correct.

[5] Q: Now, I think I don't want to  
[6] mischaracterize your testimony. I just want to  
[7] understand what you are thinking was in why you did it  
[8] that way. I understood your testimony to be that you  
[9] didn't deduct the income from the rest of the trips  
[10] that were made after the accident until May 1, 2005,  
[11] because that was — because you had this large expense  
[12] in buying a new boat?

[13] A: I would say the primary reason would be  
[14] that's what I understood the lawyers as requesting;  
[15] and secondarily, would be that, yes, it's very hard to  
[16] calculate when you had the additional expense of a new  
[17] boat and new gear and everything else, which to  
[18] subtract and which not to subtract, you know, which  
[19] part of that is even with the loss of the Ava Claire  
[20] as if it hadn't been lost. So this would be projected  
[21] loss as if we had still kept the Ava Claire without  
[22] the additional expenses, so that's as I understood as  
[23] I should prepare it.

[24] Q: Well, in your mind is the projected lost  
[25] income meant to compensate you for your expenses you

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[1] had to incur to purchase a new boat?

[2] A: Well, the expenses is a separate document  
[3] I prepared.

[4] Q: So you are not thinking that what  
[5] compensation that you're due is that the lost income  
[6] is supposed to compensate you for expenses for the new  
[7] boat. You actually have a separate claim for expenses  
[8] that you incurred to purchase a new boat; is that  
[9] correct?

[10] A: That's correct.

[11] Q: Now, during the first part of your  
[12] deposition we were looking at the monkfishing  
[13] questions and your testimony, if I am not mistaken,  
[14] was that you used invoices just from May, 2004 to  
[15] calculate the average pounds per trip that you could  
[16] hope to obtain to get to your lost income for  
[17] monkfishing; is that correct?

[18] A: I know I used about six invoices, but I'm  
[19] not sure of the exact time frame. They were recent —

[20] Q: That was one of the questions?

[21] A: So it may differ from the actual average  
[22] of that whole years now that we have them all.

[23] Q: I have two sets of invoices that have been  
[24] marked as Exhibit 22, and I believe those are the  
[25] invoices for 2003, and then we have the invoices for

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[1] 2004, which we marked as Exhibit 23. Could you look  
[2] at those, and identify for me which invoices you used  
[3] to calculate the average pounds per trip for the lost  
[4] income from monkfishing?

[5] A: No, I can't do that. I have no idea which  
[6] ones I used to calculate that. I just know that what  
[7] he's allowed as a trip limit, the total allowable  
[8] poundage he is allowed, and allowed for the fact that  
[9] he may not reach that every time. I can't tell you  
[10] which exact invoices I used to reach that.

[11] Q: What is your understanding of the trip  
[12] limit?

[13] A: It has changed every year. It changes so  
[14] much that there's no way for me to know. You would  
[15] have to ask a fisherman or —

[16] Q: You don't remember in other words?

[17] A: Or National Marine Fisheries person. It  
[18] changes so much.

[19] Q: Your prior testimony was that you thought  
[20] there was a 3,300 pound-a-day limit. Does that  
[21] refresh your recollection that that was the figure you  
[22] were going on?

[23] A: I thought we had a 4,000-pound limit, but,  
[24] again, it also varies whether he does a 24-hour trip  
[25] or a 15-hour trip. If he goes over 24 hours, then if

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[1] he's using 2 days one trip —

[2] Q: He has a bigger limit?

[3] A: So it's really hard to say. I may have  
[4] been wrong with 3,300 exactly.

[5] Q: Is that your understanding if he goes over  
[6] 24 hours — if he fishes for longer than 24 hours, he  
[7] is entitled to 2 days' worth of limit rather than —

[8] A: That's right.

[9] Q: If one day limit is say 2,000 pounds, and  
[10] he fishes for 28 hours, then he is actually entitled  
[11] to land 4,000 pounds?

[12] A: That's right.

[13] Q: Well, here's what I would like to do. I  
[14] would like to ask you to go back and — if you looked  
[15] at the invoices here today, would you be able to  
[16] refresh your recollection as to which invoices you  
[17] used to calculate the projected lost income from  
[18] monkfishing?

[19] A: I don't think so, because I don't know —  
[20] I don't remember when I prepared this document. It's  
[21] not dated and I don't even know — I can't recall  
[22] whether I did this this summer.

[23] MR. HEALEY: Let me suggest  
[24] because —

[25] MR. WEIGEL: This is what I'll say.

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[1] If she can't do it today, then here's what I would  
 [2] like you to do. If you could go back through your  
 [3] invoices, and I'll advise your attorney as to which  
 [4] invoices you're using to calculate the lost income  
 [5] from monkfishing so we can look at your numbers and  
 [6] tell how you did it. I'm interested in finding out  
 [7] how you went about obtaining the numbers that you  
 [8] obtained here, so without knowing which invoices you  
 [9] used it's impossible for me to say, okay, she either  
 [10] did her math right or she didn't do her math right or  
 [11] she used the right invoices or —

[12] **MR. HEALEY:** That's fair. You  
 [13] follow —

[14] **A:** Yes.

[15] **MR. HEALEY:** When you get back, you  
 [16] and I will get an answer to that question and I'll —

[17] **MR. WEIGEL:** We'll post it here as  
 [18] if we were posting it as an interrogatory, and you'll  
 [19] deem it accepted as if it was an interrogatory.

[20] **MR. HEALEY:** Done.

[21] **Q:** Thank you.

[22] **A:** You have the cover sheet for this, the  
 [23] date I sent it.

[24] **MR. HEALEY:** As I say, we're going  
 [25] to do it. The best way to do it is let's get

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[1] together, do it right, and Alan has already said, and  
 [2] it's a fair concession, gracious concession that we'll  
 [3] do it as an interrogatory, so you and I will work  
 [4] together, and we'll get him a full answer.

[5] **MR. WEIGEL:** Go off the record.

[6] (Whereupon, there was a discussion  
 [7] off the record.)

[8] **Q:** Now, still on the monkfishing category.  
 [9] It says times 33 trips left, and if I remember your  
 [10] testimony, you called someone, whether it was the  
 [11] National Marine Fisheries Service or the Connecticut  
 [12] DEP, I don't recall the answer, but you called  
 [13] someone, and you were able to determine from that  
 [14] telephone call they had a record of how many trips you  
 [15] had made or Michael had made up to a certain point; is  
 [16] that correct?

[17] **A:** That's right.

[18] **Q:** Do you recall —

[19] **A:** And, actually, there was a decimal. It  
 [20] was point something with a few hours.

[21] **Q:** Do you recall who it was that the  
 [22] telephone call was made to?

[23] **A:** I believe it was Bethany. She always —  
 [24] she is still employed there. She has been extremely  
 [25] helpful with giving days left.

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[1] **Q:** Who is Bethany?

[2] **A:** She works at the National Marine Fisheries  
 [3] Service.

[4] **Q:** In Gloucester, Massachusetts?

[5] **A:** Uh-huh.

[6] **Q:** Do you happen to know her last name?

[7] **A:** No.

[8] **Q:** And was that done by a telephone call?

[9] **A:** Yes.

[10] **Q:** Do you recall when you made that telephone  
 [11] call?

[12] **A:** No, because I don't remember when I made  
 [13] this document, prepared this document.

[14] **Q:** Well, do you recall if you did it very  
 [15] soon after the accident or was it a year or two after  
 [16] the accident?

[17] **A:** No. This was at least a year or two after  
 [18] the accident.

[19] **Q:** So the 2004 to 2005 permit period had  
 [20] already expired by the time you called?

[21] **A:** Correct.

[22] **Q:** So you were asking her to go look in  
 [23] historical records, and see on a certain date how much  
 [24] time did he have left after this certain date?

[25] **A:** I believe I used that plus Michael had

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[1] told me from his logs how many trips he had used that  
 [2] year. It wasn't very many. It was five or six so we  
 [3] could kind of figure with 40 days, and then I just  
 [4] verified it with Bethany.

[5] **Q:** Now, if we look at Exhibit 36, if you turn  
 [6] in Exhibit 36 — unfortunately, the numbers didn't  
 [7] print on all of them, so we'll have to use the dates.  
 [8] If you go in 2004 till we get to November 11, 2004,  
 [9] and I think it's about the sixth or seventh page in,  
 [10] it's on page 6; 11/11/2004 is the entry I'm looking  
 [11] at.

[12] **A:** Yes.

[13] **Q:** Is it your understanding that that's the  
 [14] first time Michael fished for monkfish after the  
 [15] accident with the Ava Claire?

[16] **A:** Yes, that would be my understanding.

[17] **Q:** If I am not mistaken, there are 22 more  
 [18] trips that Michael made monkfishing in 2004 and 2005  
 [19] during the 2004/2005 permit season?

[20] **MR. HEALEY:** You said 20 more. Are  
 [21] you counting 20 more after —

[22] **Q:** After the November 11 — November 11 plus  
 [23] the rest of them are 22 more trips I think it is.

[24] **A:** Before May 1 of '05?

[25] **Q:** Yes.

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[1] A: That's what I'm counting also.  
 [2] Q: Now, do you have invoices for all the  
 [3] monkfishing that was done after from November 11,  
 [4] 2005, I'm sorry, November 11, 2004 to May 1, 2005?  
 [5] A: Other than — that's already included in  
 [6] the other exhibits; is it not?  
 [7] Q: I don't remember seeing any 2005 invoices.  
 [8] A: Okay. Well, I believe I gave you the  
 [9] years that were requested.  
 [10] MR. HEALEY: If they are not there  
 [11]  
 [12] A: Calendar years you requested. You didn't  
 [13] request them by permit year.  
 [14] MR. HEALEY: What do you want?  
 [15] MR. WEIGEL: I would like to have  
 [16] the — well, if I'm not mistaken — I don't have it  
 [17] with me. I have to go back and verify it, but if I am  
 [18] not mistaken, our original document request was for  
 [19] fishing records from I thought it was 2002 to the  
 [20] present, but —  
 [21] MR. HEALEY: Let's assume it was.  
 [22] Let's assume it wasn't. I'm going to give it to you.  
 [23] MR. WEIGEL: 2002 to the present.  
 [24] Here we go. Defendant's request for documents, let's  
 [25] verify it. Maybe I'm wrong. The documents —

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[1] actually, I was requesting May 22, 1999 to present,  
 [2] but I may have asked for just fishing records for —  
 [3] A: Because the boat didn't exist.  
 [4] Q: Right, right.  
 [5] MR. HEALEY: Ask me now.  
 [6] MR. WEIGEL: We've gotten 2003 and  
 [7] 2004, 2005 and 2006, I would like to see the invoices  
 [8] for those as well.  
 [9] MR. HEALEY: You understand  
 [10] invoices?  
 [11] A: Yes, but —  
 [12] MR. HEALEY: Go ahead. But what?  
 [13] A: Well, I just object to 2006 and the rest  
 [14] of 2005.  
 [15] MR. HEALEY: What we're doing now is .  
 [16]  
 [17] A: They changed the lines and completely  
 [18] different limits and it's going to —  
 [19] MR. HEALEY: We're going to get  
 [20] them. The easiest thing is let him see them and talk  
 [21] to him. He is not an unreasonable man. We'll do it.  
 [22] So what we're doing is inquiring into the invoices,  
 [23] the '05 and '06; am I right?  
 [24] MR. WEIGEL: Right.  
 [25] MR. HEALEY: Kirsten, if there is no

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[1] problem involved, if something has to be explained —  
 [2] I'm not shmoozing these guys. I think the fact you've  
 [3] seen — we'll discuss these things. They'll be  
 [4] reasonable so when you get it — am I right, Al, we'll  
 [5] get it and see where we're going?  
 [6] MR. WEIGEL: Yes.  
 [7] MR. HEALEY: We'll take a look when  
 [8] you come back and see what it is. The first thing is  
 [9] you and I will look. You're not being asked to just  
 [10] — I would prefer to get everything out.  
 [11] A: It's confusing, because he's looking for  
 [12] an average, and 2005 is not going to help that  
 [13] average. It's going to be more confusing.  
 [14] Q: Let's explore that. Why is 2005 not  
 [15] relevant?  
 [16] A: I wish you guys could read a document from  
 [17] National Marine Fisheries, because it's extremely  
 [18] complicated, but the ratio of days at sea to total  
 [19] allowable catch change, and they are changing it again  
 [20] next week for this coming year, '07 season. It's  
 [21] extremely confusing, but sometimes when he fishes for  
 [22] other things, it takes away a day of his monkfish day.  
 [23] For example, if he fishes for cod, that uses one of  
 [24] his monkfish days. It's very confusing. The total  
 [25] allowable catch, which is the poundage per landing,

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[1] changes and the days allowed changes, but yet if  
 [2] you're in this area, it's this. It really depends on  
 [3] what area he's fishing when. Like I said, they go by  
 [4] decimals, so some of these trips we see is one trip.  
 [5] It may not be — when you are using days, it may not  
 [6] be one day. It may be 1.6 or 20, you know, 22 hours,  
 [7] and they actually go by hours and days, and I went by  
 [8] days on this. It's very confusing.  
 [9] Q: I understand that.  
 [10] A: I don't want to further confuse things for  
 [11] you.  
 [12] Q: Well, let me ask is your understanding of  
 [13] the fishing regulations, is that the same regulations  
 [14] that were in effect for the entire permit year May 1,  
 [15] 2004 to May 1, 2005?  
 [16] A: Yes.  
 [17] Q: So any of the invoices for monkfish that  
 [18] were landed in November of 2004 through April of 2005  
 [19] would have been landed under the same regulations that  
 [20] were in effect from May 1 to the date of the accident,  
 [21] 2004, correct?  
 [22] A: That's right. It's only after that I'm  
 [23] saying it would get complicated if I provided —  
 [24] Q: We would like to look at definitely the  
 [25] rest of the permit landings from the 2004/2005 permit



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(1) season, and we would also like to look at the 2006,  
 (2) and be able to compare, but certainly I think  
 (3) there's —

(4) **MR. HEALEY:** I think there's more  
 (5) problem by not looking at them, because I'm getting  
 (6) more and more confused, and I think you should —  
 (7) seriously we all have to.

(8) **MR. WEIGEL:** As you know,  
 (9) Mr. Healey, the standard is whether the production of  
 (10) documents could lead to the discovery of admissible  
 (11) information. I think there is probably —

(12) **MR. HEALEY:** Alan I said yes.

(13) **Q:** All right. I just want to put — now,  
 (14) let's stay on the same page we are looking at with 11  
 (15) November, 2004. The entry is on Exhibit 36. I see  
 (16) prior to that entry six entries for the landing of sea  
 (17) scallops; is that correct?

(18) **A:** Yes.

(19) **Q:** And do you have invoices for the sea  
 (20) scallops that were landed?

(21) **A:** They should be included on the ones that I  
 (22) have provided.

(23) **Q:** Could you look at the invoices for 2004,  
 (24) which is —

(25) **A:** Although —

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(1) **Q:** — Exhibit 23?

(2) **A:** They are such small amounts. It may have  
 (3) been he didn't sell them. He landed them and reported  
 (4) them, but he didn't sell them. We probably had them  
 (5) for dinner or gave them to relatives.

(6) **Q:** Okay.

(7) **MR. HEALEY:** Put us on that list.

(8) **A:** 14 pounds of scallops, when you include  
 (9) the shell, is not very many scallops, so that's  
 (10) probably why they're not on the invoices, on second  
 (11) thought.

(12) **Q:** Is that the only — as far as you know, is  
 (13) that the only time Michael has been scallop fishing in  
 (14) 2004, 2005 or 2006?

(15) **A:** Well, I can't really answer that question  
 (16) in that form, because I'm not sure if he was  
 (17) scalloping those days or if it was just scallop that  
 (18) he caught by-catch. If you're scalloping, you usually  
 (19) bring in around 400 or 500 pounds with a dredge.

(20) **Q:** So you don't know if this particular, the  
 (21) six or seven entries for sea scallops, you don't know  
 (22) if that was a dedicated dredging or if it was just a  
 (23) by-catch of some other catch?

(24) **A:** I would assume it was a by-catch and it  
 (25) was a seasonal — for some reason he — you know, for

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(1) some reason seasonally right in that time frame he  
 (2) caught sea scallops then, and not at other times of  
 (3) the year.

(4) **Q:** If it was a by-catch product, would it be  
 (5) unusual if that were the only catch he had? In other  
 (6) words, there's only one entry for November 5 showing a  
 (7) landing of sea scallops. There's no other species  
 (8) landed on that day, so if it was a by-catch of another  
 (9) species, wouldn't there be an entry for November 5 for  
 (10) other species?

(11) **A:** That's true. I don't recall why he landed  
 (12) sea scallops on those 6 days.

(13) **Q:** As far as you know, you have no invoices  
 (14) for scale of sea scallops on those days?

(15) **A:** That's right.

(16) **Q:** If you look at Exhibit 35, first page in  
 (17) Exhibit 35 shows the Phyllis Anne, landed a thousand  
 (18) and 3 pounds of bluefin tuna in the year 2000,  
 (19) correct?

(20) **A:** Yes.

(21) **Q:** Is this the only record you have of  
 (22) Michael landing bluefin tuna?

(23) **A:** No.

(24) **Q:** Can you tell me what other times Michael  
 (25) landed bluefin tuna?

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(1) **A:** Second page, the species code there is  
 (2) bluefin tuna.

(3) **Q:** BFT is bluefin tuna?

(4) **A:** Yes, and I believe there's some on the  
 (5) last page.

(6) **Q:** If I understand this, 2000, it was 1,003  
 (7) pounds of bluefin tuna, in 2002 it was 897 pounds of  
 (8) bluefin tuna. There was no bluefin tuna landed from  
 (9) the Ava Claire, correct?

(10) **A:** Correct.

(11) **Q:** And then the Madelyn Ruth landed 1,792  
 (12) pounds of bluefin tuna in 2004?

(13) **A:** Yes.

(14) **Q:** And that's it?

(15) **A:** Yes.

(16) **Q:** So 2004 — when would Mike have fished for  
 (17) bluefin tuna in 2004?

(18) **A:** That was immediately after he purchased  
 (19) the Madelyn Ruth, I believe within days, so September  
 (20) or October of 2004 is the first thing that he did with  
 (21) the new boat.

(22) **Q:** Is it correct that Mike never fished —  
 (23) did he never fish for bluefin tuna off the Ava Claire  
 (24) or did he not catch any off the Ava Claire?

(25) **A:** I believe he never caught any. This is

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[1] also 2005 and 2006.  
[2] Q: Now, again, that's the same question on  
[3] the Madelyn Ruth? He landed 1,792 pounds of bluefin  
[4] tuna in 2004 but that's it. Did he not fish for  
[5] bluefin in 2005 and 2006 or did he fish and not catch  
[6] any?  
[7] A: I remember that 2005 he did not fish for  
[8] bluefin tuna. 2006 he did fish, spent a lot of money  
[9] and caught nothing.  
[10] Q: Now, during the period of time that you  
[11] are projecting your lost income, which is May 1 — I'm  
[12] sorry — the date of accident through May 1, 2005,  
[13] during that time period Mike was also fishing inshore  
[14] on a smaller boat that you owned; is that correct?  
[15] A: Excuse me, yes, during that period of  
[16] time, yes. There is a period of time he also fishes a  
[17] smaller boat inshore.  
[18] Q: And the records of those catch are  
[19] reflected in Exhibit 36, correct?  
[20] A: Correct.  
[21] Q: Now, from the date of the accident it  
[22] looks like the first time that Michael fished again  
[23] was July 13, 2004. That was the next record of catch,  
[24] and that's on the third page of Exhibit 36; is that  
[25] correct?

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[1] A: That looks correct.  
[2] Q: And then so he fished inshore from July  
[3] 13, 2004 all the way through November 5, 2004, and  
[4] then he fished offshore for monkfish with the Madelyn  
[5] Ruth, correct?  
[6] A: That's correct.  
[7] Q: Now, I haven't counted them, but there's  
[8] almost 2 and a half or 3 pages worth of records of  
[9] catch inshore of summer flounder and fluke and that  
[10] type of fish. In a typical monkfishing season would  
[11] Michael have still made this many of inshore trips?  
[12] A: Monkfishing can be either one or two days  
[13] a week, and he often does the other, both, in-between  
[14] if it's still in season, if the fish are still there,  
[15] so it's possible. I didn't catch your number. How  
[16] many did you say?  
[17] Q: I don't know how many there are. I didn't  
[18] count them, but if you go to — if you go further on  
[19] in the document 2005, it shows usually about two  
[20] monkfishing trips and maybe one or — actually, I'm  
[21] actually — I can't really find separate trips on  
[22] separate days. Maybe there are some trips on separate  
[23] days where he landed monkfish one day, and then a day  
[24] or two later landed —  
[25] A: Should I point them out? Would that be

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[1] helpful.  
[2] MR. HEALEY: Wait for a question.  
[3] Q: What I'm asking is can you show me in  
[4] Exhibit 36 where during the monkfishing season he  
[5] would fish for monkfish one day, and then land a  
[6] couple days later a catch working off the smaller boat  
[7] inshore?  
[8] A: Where do you want me to start?  
[9] Q: Wherever you can point out that pattern of  
[10] fishing to me, I would like to know where it is.  
[11] A: 5/10/2005, winter flounder and summer  
[12] flounder —  
[13] Q: Hold on a second.  
[14] A: — is in-between several monkfish trips.  
[15] Generally anywhere from May to August, but I can't  
[16] point them out.  
[17] Q: Well, hold on. Let's just examine that  
[18] entry. We have 5/10/2005. There where he lands  
[19] winter flounder, black back summer flounder and fluke,  
[20] is that the entry you are referring to?  
[21] A: That's right.  
[22] Q: You say that's between a monkfishing trip,  
[23] but the next entry is for 5/10/2005 is also monkfish;  
[24] is that correct?  
[25] A: Oh, I'm mistaken then. Those were caught

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[1] while he was monkfishing. He often does catch fluke while  
[2] he's monkfishing, and that probably will be reflected on  
[3] the invoice to match that day. But if we go further  
[4] down, there are trips that's just more in June of  
[5] conch and welk and summer flounder and squid. That  
[6] would just be the inshore boat.  
[7] Q: So would you say on average he would make  
[8] two monkfishing trips, and then two, maybe two inshore  
[9] trips a week?  
[10] A: On a bad weather week. On a good weather  
[11] week he would probably make four or five inshore  
[12] trips, and depending on how many fish were there, if  
[13] it would be worth it. More like July and August he  
[14] probably did a lot more of the inshore trips  
[15] in-between and a lot less monkfishing.  
[16] Q: Now, did he also work for another  
[17] fisherman after he used his 40 days up?  
[18] A: In 2005 or 2004?  
[19] Q: Well, in 2004 did he work for someone  
[20] else. Before the start of the May 1, 2004 permit  
[21] season, so prior to May 1, 2004, did he monkfish on  
[22] someone else's boat, do you recall?  
[23] A: I don't recall. I believe that he did  
[24] many years leading up to the purchase of the Ava  
[25] Claire, someone else's boat, but I don't recall if he

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[1] did that year. He may have done other trips on other  
 [2] people's boats not monkfishing.

[3] **Q:** And how about in 2005 from the time of the  
 [4] accident until the time he purchased the Madelyn Ruth,  
 [5] and started monkfishing on the Madelyn Ruth, did he  
 [6] work on another boat?

[7] **A:** That would be 2000 —

[8] **MR. HEALEY:** What date?

[9] **Q:** From May 22, 2004. I mis-spoke. From May  
 [10] 22, 2004 until November of 2004 when he purchased the  
 [11] Madelyn Ruth and began monkfishing off the Madelyn  
 [12] Ruth, did he work on anyone else's boat, and have any  
 [13] income from working on anyone else's boat?

[14] **A:** Yes, I believe he did.

[15] **Q:** Whose boat did he work on?

[16] **A:** I believe he did the — what's the one out  
 [17] of New Bedford? I want to say Melinda Mac.

[18] **MR. HEALEY:** Give him the best —

[19] **A:** There is a boat out of New Bedford that  
 [20] goes dragging for several days. I believe he did a  
 [21] couple trips on that.

[22] **Q:** Was he paid a share?

[23] **A:** He was paid a share.

[24] **Q:** Do you have any records showing what his  
 [25] share was for those trips?

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[1] **A:** Yes.

[2] **Q:** We have not seen those records. Would you  
 [3] please produce copies of those records to your  
 [4] attorney?

[5] **MR. HEALEY:** Wait a minute. These  
 [6] are the boat out of New Bedford, his share.

[7] **A:** Right. I believe we have copies of  
 [8] checks.

[9] **Q:** Now, since the accident — we're still on  
 [10] Exhibit 27. Since the accident occurred in May, we  
 [11] really have 11 months of this projected lost income  
 [12] statement is based on 11 months of fishing. This is  
 [13] what you would have expected to earn in 11 months of  
 [14] fishing; is that correct?

[15] **A:** That's correct.

[16] **Q:** Besides — the boat you said he was  
 [17] working on in 2004 besides the Ava Claire, someone  
 [18] else's boat, what was it? You said it was out of  
 [19] where?

[20] **A:** I can't recall the name.

[21] **Q:** Is that out of New Bedford?

[22] **A:** New Bedford.

[23] **Q:** Did he also work on a boat out of  
 [24] Shinnecock?

[25] **A:** In 2004? It's possible, but I don't think

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[1] so. He may have worked out of Scott's boat in New  
 [2] London.

[3] **Q:** What we would like, Mr. Healey, is the  
 [4] records of any other income earned from fishing for  
 [5] boats not owned by Mr. Stepski. I think that covers  
 [6] the — I ask it that way. That covers —

[7] **MR. HEALEY:** No, no, no, there's no  
 [8] problem. I have to sit-down with Kirsten. It's clear  
 [9] enough. We want to get all sources of income instead  
 [10] of going all over. We can do it, and do it from a  
 [11] different approach, and get it all tied up, all other  
 [12] boats, okay.

[13] **Q:** On Exhibit 27, the income that you're  
 [14] projecting for monkfishing, bluefin tuna and  
 [15] scalloping is the gross income, correct?

[16] **A:** Correct.

[17] **Q:** It doesn't account for expenses and the  
 [18] other crewmen shares, correct?

[19] **A:** Correct.

[20] **Q:** I'll have to show you a document which we  
 [21] marked as Exhibit 24. Have you seen that document  
 [22] before?

[23] **A:** Yes.

[24] **Q:** Can you identify that document, please?

[25] **A:** This is our tax return from 2003.

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[1] **Q:** What was your gross income for 2003?

[2] **A:** \$1,787.

[3] **Q:** Where did you find that figure?

[4] **A:** On page — if you turn the other way, it's  
 [5] page 4.

[6] **Q:** This is the Schedule C, gross income?

[7] **A:** Yes.

[8] **Q:** \$1,787, correct?

[9] **A:** Yes.

[10] **Q:** Here's the income tax return for 2004,  
 [11] which we marked as Exhibit 25. What was your gross  
 [12] income from 2004?

[13] **A:** \$108,892.

[14] **Q:** And let me show you the income tax return  
 [15] from 2005. Your gross income from 2005?

[16] **A:** \$180,507.

[17] **Q:** Have you done your 2006 taxes yet?

[18] **A:** Yes, we have.

[19] **Q:** Do you have an estimate of what your gross  
 [20] income was from 2006?

[21] **A:** It was \$130,000 estimate.

[22] **Q:** If you look at Exhibit 27 again, has  
 [23] Niantic Fish, LLC or Michael Stepski ever earned  
 [24] \$362,337 in a year from fishing?

[25] **A:** No.

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[1] Q: Let me just look over my notes for a  
[2] minute.  
[3] A: Can I explain?  
[4] MR. HEALEY: No. I know —  
[5] A: I had to clarify.  
[6] Q: I do have a question. Look at 27. We do  
[7] have some records now showing when you caught bluefin  
[8] tuna, when Michael caught bluefin tuna, I'm sorry, not  
[9] you personally, when Michael caught bluefin tuna, but  
[10] I haven't seen any invoices which support your claim  
[11] that you were paid \$10 a pound for bluefin tuna. Do  
[12] you have invoices for any of those catches?  
[13] A: I should have invoices for them.  
[14] Q: That support that number?  
[15] A: Yes, I should have them. I don't know why  
[16] I didn't include them.  
[17] Q: So I would like to have —  
[18] MR. HEALEY: You want the bluefin  
[19] tuna invoices?  
[20] MR. WEIGEL: Bluefin tuna invoices.  
[21] MR. HEALEY: BFT. You see how  
[22] quickly I am catching on?  
[23] MR. WEIGEL: Off the record.  
[24] (Whereupon, there was a discussion  
[25] off the record.)

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[1] Q: Is that your — is your testimony that you  
[2] obtained that figure, \$10 a pound, from the invoices  
[3] that you had in your words showing how much you were  
[4] paid for prior tuna catches?  
[5] A: Yes, that's an average, because it can  
[6] vary on the quality of the meat.  
[7] Q: Does the — when he lands tuna, do they  
[8] butcher the tuna on the dock, and then weigh certain  
[9] portions and say, okay, I'll buy this piece for this  
[10] much, and this piece for another or do they just sell  
[11] the fish whole, and the buyer makes some estimate of  
[12] the quality of the fish?  
[13] A: I don't know.  
[14] Q: Because I haven't seen the invoices. I  
[15] can't really tell. That's why I'm asking —  
[16] A: I have never been there when he's landed a  
[17] tuna and see how they process, the buyers process the  
[18] tuna.  
[19] Q: Are you familiar with the invoices,  
[20] though?  
[21] A: I'm familiar with the invoices.  
[22] Q: And when he lands tuna, does he get an  
[23] invoice for landing one amount of tuna at one price or  
[24] is the invoice broken-down into several different  
[25] price categories?

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[1] A: No. It's one price for the whole fish.  
[2] Q: I would like to mark this document as the  
[3] next exhibit. We may have marked this already.  
[4] MR. HEALEY: This has been marked  
[5] someplace.  
[6] (Defendant's Exhibit 37, marked for  
[7] identification.)  
[8] Q: Did you prepare Exhibit 37?  
[9] A: Yes.  
[10] Q: You recognize Exhibit 37?  
[11] A: Yes.  
[12] Q: And you prepared Exhibit 37?  
[13] A: Yes.  
[14] Q: Did you prepare it the same time as you  
[15] prepared projected lost income per Michael?  
[16] A: Yes.  
[17] Q: Could we take a quick break?  
[18] (Whereupon, there was a brief  
[19] recess.)  
[20] (Defendant's Exhibit 38, marked for  
[21] identification.)  
[22] Q: Mrs. Stepski, I show you a document which  
[23] we previously marked as Exhibit 29, and I believe that  
[24] you were shown a copy of that document at your first  
[25] part of your deposition; and if I understand this

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[1] document correctly, anywhere there is an asterisk for  
[2] the first part, the value of year lost, you have a  
[3] receipt or copy of a check for that figure?  
[4] A: It may not be for that figure. I may have  
[5] many, many receipts that total that figure.  
[6] Q: For example, registrations total is  
[7] \$1,400. You might have seven checks for \$200 that  
[8] total \$1,400?  
[9] A: That's correct.  
[10] Q: We would like to have copies of all of the  
[11] receipts for checks that were used to arrive at the  
[12] figures for value of boat and gear lost and expenses  
[13] incurred and purchased for the vessel?  
[14] A: Except the ones that are not asterisked I  
[15] can't provide.  
[16] Q: I understand for the first half value of  
[17] boat and gear lost, if there is no asterisk you don't  
[18] have a receipt, and that's your best estimate of what  
[19] the cost was, correct?  
[20] A: That's correct.  
[21] Q: I do understand for the expenses incurred  
[22] in purchase of new vessel that receipts can be provide  
[23] for each of those listings; is that right?  
[24] A: That's right.  
[25] Q: I would like to have the astrisked ones



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[1] for the value of the gear lost, and all of the ones  
 [2] for expenses incurred in the purchase of a new vessel.

[3] **MR. HEALEY:** Okay.

[4] **Q:** Let's turn to what we've marked as Exhibit  
 [5] 37. If we look at what we've marked as Exhibit 37,  
 [6] you said you prepared this the same time you prepared  
 [7] Michael Stepski's lost income statement, correct?

[8] **A:** Yes.

[9] **Q:** How did you determine what to use for  
 [10] expenses?

[11] **A:** They were pretty average every trip that  
 [12] we took off.

[13] **Q:** Well, is there a document we could look at  
 [14] to determine how you decided that the average amount  
 [15] of fuel used was \$200?

[16] **A:** We have many fuel receipts, and they all  
 [17] average about that at that time of year, back in 2004,  
 [18] and most of his grocery receipts averaged around that.  
 [19] Sometimes Michael just took that out flat. He didn't  
 [20] go by the actual dollar amount. Michael just said to  
 [21] subtract so much for food. We're doing that this  
 [22] year.

[23] **Q:** What I'm trying to understand is in 2004  
 [24] did Michael actually take the fuel receipt and the  
 [25] groceries receipt and the dockage receipt, total those

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[1] up for the trip, and then deduct them from the gross  
 [2] income before he calculated Geal's share?

[3] **A:** The dockage is a percentage of the pounds  
 [4] landed.

[5] **Q:** Do you know what that percentage is?

[6] **A:** What percentage?

[7] **Q:** Yes.

[8] **A:** Actually, it can vary where he lands, but  
 [9] usually it's about 5 cents per pound.

[10] **Q:** So dockage average is 5 cents per pound?

[11] **A:** That's right. So I believe I went by the  
 [12] average gross trip poundage to get the dockage. We  
 [13] usually did not at that time use receipts for food and  
 [14] fuel. He took an average or rounded.

[15] **Q:** So it was basically just an estimate of  
 [16] what the fuel and food was for the trip?

[17] **A:** It was more of an average than an  
 [18] estimate.

[19] **Q:** Well, I'm still trying to understand.  
 [20] I'm, for some reason, not getting how on each trip  
 [21] Michael did calculate expenses for food and fuel.

[22] **A:** Well, he fueled the boat several days  
 [23] beforehand or the day beforehand, and he grabbed the  
 [24] groceries on the way to the boat; and, you know, if we  
 [25] didn't have them immediately available with each trip,

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[1] he would just tell me it was about \$200 for fuel, and  
 [2] that's what we average for every time we fueled up  
 [3] because of the gallon size capacity of his both. It  
 [4] may have been \$224. It might have been \$189, but we  
 [5] averaged that for the crew, because it's not fair if  
 [6] sometimes like Geal comes, and he needed more fuel  
 [7] that trip, and the next guy comes, and he didn't need  
 [8] very much fuel, because he didn't burn very much,  
 [9] because he went a shorter distance, and he only needed  
 [10] to fill it half for that guy to make more, so we try  
 [11] to take an average.

[12] **Q:** Does he use the same amount each time he  
 [13] calculated the share?

[14] **A:** Of fuel?

[15] **Q:** In other words, he calculate the share —  
 [16] did he use expenses, actual expenses on each trip to  
 [17] calculate the share or he just always said food and  
 [18] fuel is always \$250?

[19] **A:** I believe back in '04 pretty much he said  
 [20] food and fuel is right around that every time, but  
 [21] that's not what we do anymore.

[22] **Q:** So in 2004 he just picked a figure that  
 [23] was appropriate?

[24] **A:** That he felt was appropriate to subtract.

[25] **Q:** And used that so you don't have any

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[1] documents that necessarily we could look at?

[2] **A:** I have the documents, because I prepare  
 [3] them for the tax return.

[4] **Q:** Would the tax return show us how much —

[5] **A:** It would show.

[6] **Q:** — food and fuel he used on a yearly  
 [7] basis?

[8] **A:** Yes.

[9] **Q:** If we know how many monkfishing trips he  
 [10] made that year, you could calculate it on a trip  
 [11] basis, correct?

[12] **A:** That's correct.

[13] **Q:** Now, since Michael didn't actually do any  
 [14] scalloping, how did you come up with expenses for the  
 [15] scallop fishing, projected lost income?

[16] **A:** I asked him what he thought, and he knew  
 [17] that he had to go further out for scalloping and you  
 [18] also — it uses more fuel, because you're pulling a  
 [19] dredge, and you're kind of doing these paths, and then  
 [20] you turn around, and that uses a lot more fuel than  
 [21] when he idles and pulls in nets. So I basically, upon  
 [22] discussion with him, came about that, and the dockage  
 [23] I think is a set amount for 400 pounds per trip.

[24] **Q:** It would a certain percentage?

[25] **A:** Yes.



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[1] Q: It looks like 10 cents per pound,  
[2] something like that, right?  
[3] A: That's right.  
[4] Q: But these are just estimates. They are  
[5] based on Michael's estimate of what it might take to  
[6] do that, correct?  
[7] A: That's right. Both these documents were  
[8] estimates that I tried to compile in a short amount of  
[9] time and are not exacting or — they're the best that  
[10] I came up with in a short amount of time.  
[11] Q: Why is Geal's crew share different between  
[12] monkfishing and scalloping?  
[13] A: Because with monkfishing you need another  
[14] guy, usually takes three guys, and when you take just  
[15] one by themselves, they earn more. With scalloping he  
[16] would only need Geal.  
[17] Q: And Geal's share for monkfishing was 15  
[18] percent. What was the share for the third crewman.  
[19] A: Probably 10 percent. It kind of depends  
[20] on who he takes, and their level of experience, and  
[21] that's the way it is on all charter boats and fishing  
[22] boats. You could split 25 percent any amount, any way  
[23] that you want amongst how many crew you have, and the  
[24] more experienced crew member gets the higher  
[25] percentage.

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[1] Q: So if there are two crew members for  
[2] monkfishing trips, they split between them 25 percent  
[3] share?  
[4] A: That's right.  
[5] Q: Was that, as far as you remember, the  
[6] share that Benjamin Schober got for his few trips he  
[7] made?  
[8] A: As far as I remember. I know there's —  
[9] there was a few trips that there was a lot of work or  
[10] a huge amount that they hauled in, and he bumped it up  
[11] to 30 percent, and gave them, you know, a division of  
[12] that. There are times when he will increase the share  
[13] for a certain trip.  
[14] Q: Well, I'm done. Thank you.  
[15] MR. HEALEY: All right, Mr. Unger.  
[16] CROSS-EXAMINATION BY MR. UNGER:  
[17] Q: Good afternoon, Mrs. Slepiski. First of  
[18] all, off the record.  
[19] (Whereupon, there was a discussion  
[20] off the record.)  
[21] Q: This will be the third child, correct?  
[22] A: This will be our third child together.  
[23] It's my fifth.  
[24] Q: Your fifth, okay.  
[25] MR. HEALEY: We have to correct

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[1] this. It's not his fault. It's his responsibility.  
[2] Q: Were you previously married?  
[3] A: Yes.  
[4] Q: The other two children are from that  
[5] marriage?  
[6] A: Yes.  
[7] Q: How old are they?  
[8] A: Right now?  
[9] Q: Yes.  
[10] A: They're 16 and 14.  
[11] Q: Do they live with you?  
[12] A: Part-time.  
[13] Q: When you say part-time, is it —  
[14] A: Joint custody and we share days.  
[15] Q: When did that marriage end?  
[16] A: November of '97.  
[17] Q: And refresh my recollection. When were  
[18] you and Michael married?  
[19] A: I can't get this wrong now; October 4,  
[20] 2003.  
[21] Q: Your two children now with Michael are how  
[22] old?  
[23] A: 4 and 2 and a half.  
[24] Q: And the names again, please?  
[25] A: Ava and Madelyn. The two names of the

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[1] boats.  
[2] Q: Are you on any medication today?  
[3] A: No.  
[4] Q: Do you take any medication on a regular  
[5] basis?  
[6] A: No.  
[7] Q: Before the deposition did you have a  
[8] meeting with Attorney Stevens and/or Attorney Healey?  
[9] A: Not recently.  
[10] Q: Is it correct to say that there have been  
[11] a number of meetings that you have attended with the  
[12] attorneys?  
[13] A: Yes.  
[14] Q: And is it correct that at those meetings  
[15] Michael was also in attendance?  
[16] A: Yes.  
[17] Q: And was Geal Roderick also in attendance  
[18] for those meetings?  
[19] A: Yes.  
[20] Q: What about Mr. Schober?  
[21] A: Most of them. I think he missed a few.  
[22] Q: About how many meetings have there been  
[23] all told?  
[24] A: Five or six maybe.  
[25] Q: How long have they lasted in general?

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[1] A: 2 hours.  
 [2] Q: When was the last time you attended a  
 [3] meeting with the attorneys?  
 [4] A: Before the last time we met here; whenever  
 [5] the last deposition — the end of Michael's  
 [6] deposition. Was that in January?  
 [7] Q: In January, yeah. Was Mr. Gargan there  
 [8] for those meetings as well?  
 [9] A: Some of them; not all.  
 [10] Q: When was the first time that you met with  
 [11] an attorney in connection with this case?  
 [12] A: I'm not sure. Michael met once or twice  
 [13] without me.  
 [14] Q: And that was Attorney Stevens?  
 [15] A: Yes.  
 [16] Q: When was the first time that you met with  
 [17] Attorney Stevens?  
 [18] A: Probably would have been the spring of  
 [19] '05.  
 [20] Q: As the head of the household in terms of  
 [21] scheduling and keeping track of stuff —  
 [22] MR. HEALEY: And anything important.  
 [23] Q: — do you take care of the medical  
 [24] appointments for Michael and the children and  
 [25] yourself?

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[1] A: Yes.  
 [2] Q: What's the name of Michael's doctor?  
 [3] A: Dr. Rabinovich, R-A-B-I-N-O-V-I-C-H.  
 [4] Q: First name?  
 [5] A: I don't know.  
 [6] Q: And how long has Michael been a patient  
 [7] with Dr. Rabinovich?  
 [8] A: All his adult life; since 18.  
 [9] Q: Who is your primary care physician?  
 [10] A: I don't have one.  
 [11] Q: You do have an OB-GYN, I presume?  
 [12] A: Actually, I have a midwife, but I did have  
 [13] an OB-GYN.  
 [14] Q: What is that doctor's name?  
 [15] A: Maureen Davis is the OB-GYN and midwife-I  
 [16] used for many years until just recently, and I  
 [17] switched to Birth and Beyond, Vickie — I'm not sure  
 [18] of her last name. I can get her last name, but her  
 [19] name is Vickie.  
 [20] MR. HEALEY: What is her name?  
 [21] A: You know, it's in my wallet.  
 [22] MR. HEALEY: I'm curious.  
 [23] A: I just recently switched. She's not on  
 [24] the card.  
 [25] Q: Where is Birth and Beyond?

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[1] A: Madison, Connecticut.  
 [2] Q: Your first two children you dealt with Dr.  
 [3] Davis?  
 [4] A: No. Dr. Levine who is in the same  
 [5] practice.  
 [6] Q: Where are Dr. Davis and Levine located?  
 [7] A: Shoreline OB-GYN in New London,  
 [8] Connecticut.  
 [9] Q: Do you presently have health insurance?  
 [10] A: No.  
 [11] Q: What about life insurance?  
 [12] A: Yes.  
 [13] Q: Both yourself and Michael?  
 [14] A: Yes.  
 [15] Q: Was there a change in the life insurance  
 [16] policy following May of 2004 for either yourself or  
 [17] Michael?  
 [18] A: Yes. I believe I increased Michael's and  
 [19] started one for myself.  
 [20] Q: How much did you increase Michael's to?  
 [21] A: From \$100,000 to \$200,000 and mine is  
 [22] \$200,000.  
 [23] Q: And this took place after the Ava Claire  
 [24] accident?  
 [25] A: Yes.

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[1] Q: Was the accident a motivating factor in  
 [2] your doing the change to the life insurance policy?  
 [3] A: Absolutely.  
 [4] Q: Have you ever had any previous mental  
 [5] health therapy or visits with a doctor or  
 [6] psychologist, psychiatrist?  
 [7] A: Yes.  
 [8] MR. HEALEY: Before what? You  
 [9] didn't give a date. Before today?  
 [10] MR. UNGER: Ever.  
 [11] MR. HEALEY: I'm sorry, I  
 [12] misunderstood you.  
 [13] Q: When was the first time that you saw a  
 [14] psychiatrist, psychologist, mental health counselor?  
 [15] A: I saw a counselor back in 1994 after the  
 [16] birth of my son. I tend to suffer from postpartum  
 [17] depression. It started then.  
 [18] Q: And that was the reason you saw the  
 [19] counselor?  
 [20] A: Yes, and then I also saw a counselor while  
 [21] I was getting my divorce, I believe, from like '96 to  
 [22] '99 maybe sporadically; not too regularly.  
 [23] Q: Who was that?  
 [24] A: It was someone at — what's the name of  
 [25] that agency? It was so long ago I really —

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[1] Q: How about we do this. We'll leave a blank  
 [2] in the transcript, and if you remember it, you can  
 [3] fill it in when you get the transcript to read it and  
 [4] sign, okay?  
 [5] MR. HEALEY: That's good.  
 [6] A: Childhood Family Agency is the agency, but  
 [7] I can't tell you the name of the councilor.  
 [8] Q: Where is Childhood Family Agency?  
 [9] A: New London, Connecticut.  
 [10] Q: Are you originally from New London?  
 [11] A: Waterford, the next town.  
 [12] Q: When was the next time that you saw a  
 [13] mental health professional?  
 [14] A: After Ava's birth, which would be — I  
 [15] believe it was around April of '03 for postpartum  
 [16] depression also.  
 [17] Q: Who was that?  
 [18] A: That was Maureen Davis. Actually, I  
 [19] didn't receive counseling. I just received medication  
 [20] and appointments with the midwife, so I didn't see any  
 [21] mental health professional at that time.  
 [22] Q: That was Zoloft you were taking back then?  
 [23] A: Uh-huh, and then again when I was 6 months  
 [24] pregnant with Madelyn I started it again. Actually,  
 [25] the month of the accident, sometime recently or right

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[1] before the accident.  
 [2] MR. HEALEY: You are talking about  
 [3] the May 22, '04 —  
 [4] A: Yes.  
 [5] Q: You had started the — you had started the  
 [6] treatment, again, not treatment, but you had started  
 [7] taking Zoloft again before the May 22, 2004 accident?  
 [8] A: Yes.  
 [9] Q: And that was Dr. Davis again?  
 [10] A: Yes.  
 [11] Q: Were you doing anything else besides  
 [12] taking Zoloft?  
 [13] A: No. As far as with a professional?  
 [14] Q: Right.  
 [15] A: No.  
 [16] Q: Well, were you doing anything with a  
 [17] nonprofessional such as a clergy or a family member or  
 [18] counselor of some sort?  
 [19] A: To handle my postpartum depression or to  
 [20] handle —  
 [21] Q: Well, to handle whatever issues you were  
 [22] having.  
 [23] A: Yeah, I have a lot of family support. I  
 [24] have a couple of close friends. Hiking is something  
 [25] that really helps me, and, you know, being aware of

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[1] how the medication made me feel. The midwife was very  
 [2] supportive and involved so that was it.  
 [3] Q: How long did you continue on the Zoloft  
 [4] from May of 2004?  
 [5] A: Until April of 2006.  
 [6] Q: So you took it for almost 2 years?  
 [7] A: Yes.  
 [8] Q: Did you continue to see Dr. Davis during  
 [9] this period?  
 [10] A: Yes.  
 [11] Q: And it was Dr. Davis who was the only one  
 [12] prescribing the Zoloft?  
 [13] A: Yes. I believe we switched to Wellbutrin  
 [14] at one point, and went back to Zoloft. I don't know  
 [15] if that's important.  
 [16] Q: Why did you stay on the antidepressant  
 [17] Zoloft?  
 [18] A: I felt I needed it.  
 [19] Q: Was it related to the postpartum  
 [20] depression?  
 [21] A: Yes. It was a hormonal imbalance that I  
 [22] get that affects my moods and emotions, and it was a  
 [23] very low dose so we felt that it was safe to continue.  
 [24] Q: Have you seen any other doctors in  
 [25] connection with any kind of mental health issues?

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[1] A: No.  
 [2] Q: Have you taken any kind of antidepressants  
 [3] since April of 2006?  
 [4] A: No. We just started seeing a counselor  
 [5] recently.  
 [6] Q: Who is that?  
 [7] A: I'm sorry. Dr. Aron, Mark Aron, A-R-O-N,  
 [8] in Old Saybrook, Connecticut is a marriage counselor.  
 [9] I believe he's also a psychologist.  
 [10] Q: When did you start seeing Dr. Aron?  
 [11] A: In March. It may have been the end of  
 [12] February.  
 [13] MR. HEALEY: This year, right?  
 [14] A: Of this year, yes.  
 [15] Q: How did you come to go to Dr. Aron?  
 [16] A: Michael and I both felt it was something  
 [17] we wanted to do and needed.  
 [18] Q: Did anyone recommend Dr. Aron to you?  
 [19] A: No. I went to him, because he does  
 [20] Saturdays.  
 [21] MR. HEALEY: He does what?  
 [22] A: Does Saturdays.  
 [23] Q: How long were you on the Zoloft after Ava  
 [24] was born?  
 [25] A: I started it when she was about 6 months

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[1] old, and I believe I was only on it — oh, I know. I  
 [2] stopped it in the middle of August, because it makes  
 [3] me gain weight, and we were getting married in  
 [4] October.  
 [5] Q: How did you come to meet Michael?  
 [6] A: We were setup on a blind date by our  
 [7] parents.  
 [8] Q: Your parents knew one another?  
 [9] A: Our parents worked together, his mother  
 [10] and my father.  
 [11] Q: Okay.  
 [12] A: And they coerced us into getting together.  
 [13] MR. HEALEY: Coerced? Now strike  
 [14] that, please.  
 [15] A: I was very, very reluctant. You have no  
 [16] idea. I said I am not going to get setup on a blind  
 [17] date by my dad.  
 [18] Q: Okay.  
 [19] A: It all worked out.  
 [20] Q: When did you meet?  
 [21] A: We met in November of 2001.  
 [22] Q: Jumping back to Dr. Aron for a second.  
 [23] How many times have you seen Dr. Aron?  
 [24] A: We have only gone three times.  
 [25] Q: How often do you see him?

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[1] A: We tried for once a week, and then Mike  
 [2] had to leave to go fishing, so when we can.  
 [3] Q: What were the issues that brought you to  
 [4] go see Dr. Aron?  
 [5] A: I felt that Michael had an explosive  
 [6] temper recently, and he was not fighting appropriately  
 [7] or arguing appropriately; that it was escalating to  
 [8] get out of hand; and we have a lot of stress in our  
 [9] life that we think we both need help handling, new  
 [10] suggestions for how to, you know, work through things  
 [11] and communicate.  
 [12] Q: Has Michael ever been physically abusive  
 [13] toward you?  
 [14] A: Just recently.  
 [15] Q: Tell me about that.  
 [16] A: He was arrested the end of February, no,  
 [17] it was the beginning of February, February 10, because  
 [18] he turned violent in an argument and I called 911.  
 [19] Q: This was at your home?  
 [20] A: Yes.  
 [21] Q: A domestic dispute?  
 [22] A: Yes.  
 [23] Q: What was the argument about?  
 [24] A: I didn't want him sleeping in the bed. I  
 [25] wanted him to sleep on the couch and he refused, and

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[1] he had had too much to drink.  
 [2] Q: Were there charges brought?  
 [3] A: Yes.  
 [4] Q: And do you know what those charges are?  
 [5] A: I'm not sure. I believe they were —  
 [6] MR. HEALEY: Do you know? I mean,  
 [7] if you know, I would like you to tell us, but if  
 [8] you're guessing, it doesn't help us.  
 [9] Q: I don't want you to guess.  
 [10] A: I think it was assault in some degree.  
 [11] I'm not sure which degree, and there were more toward  
 [12] the police. He was very resistant with arrest and  
 [13] breach of peace and ...  
 [14] Q: Is that court — is that court case still  
 [15] pending?  
 [16] A: Yes.  
 [17] Q: Is Michael still living in the house with  
 [18] you?  
 [19] A: Yes, now he is, but we were separated.  
 [20] Q: How long were you separated?  
 [21] A: About a month.  
 [22] Q: Where did he live during that time?  
 [23] A: In Old Saybrook with his friend Dave.  
 [24] Q: When did he return to the house?  
 [25] A: I believe March 20.

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[1] Q: When you mentioned before that Michael had  
 [2] demonstrated an explosive temper recently, is that a  
 [3] change from when you first started knowing him?  
 [4] A: Yes, and by recently it's been within the  
 [5] last 3 years or so. It's been progressing to be  
 [6] different from when I first met him.  
 [7] Q: How so?  
 [8] A: Things that normally wouldn't even bother  
 [9] him he snaps at, and just has a lot less patience,  
 [10] more irritable, tends to yell a lot more easily. I  
 [11] think he holds things in more, and that is different  
 [12] than the way it used to be.  
 [13] Q: How was he when you first got to know him?  
 [14] A: How is it when you first get to know  
 [15] anyone? Do I really need —  
 [16] Q: That's why you married him, huh?  
 [17] A: He cooked, he cleaned. Well, he cleaned  
 [18] his own place. He didn't clean my place. He was a  
 [19] clean person. He was very patient and quiet and easy  
 [20] going, and he still can be most of the time. But when  
 [21] he got angry, he never has gotten angry to that degree  
 [22] before or reacted to things quite so easily even if  
 [23] there was upsetting things, and there was stress in  
 [24] our life early on, in our combined lives early on, but  
 [25] not to that degree.



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[1] Q: The stress wasn't to the degree now?  
 [2] A: No; his reactions to stress.  
 [3] Q: You had some hard times early on as well?  
 [4] A: We did, yeah. Well, I have two children  
 [5] from another marriage.  
 [6] Q: Did that create —  
 [7] A: We had Ava before we were married so there  
 [8] was stress and just family stuff and changing jobs and  
 [9] that kind of thing, too.  
 [10] Q: You're employed now?  
 [11] A: No.  
 [12] Q: But you were employed before you were  
 [13] married?  
 [14] A: Yes.  
 [15] Q: What was your job?  
 [16] A: I worked at Lawrence & Memorial Hospital  
 [17] as a medical secretary.  
 [18] Q: When did you stop working?  
 [19] A: April of '03.  
 [20] Q: Did the loss of your income also create  
 [21] stress on the relationship?  
 [22] A: I didn't make much income, but I had all  
 [23] the medical benefits so that caused some stress.  
 [24] Q: When Ava was born, did that create some  
 [25] additional stress?

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[1] A: Loss of sleep, I think, created a lot of  
 [2] stress, but Michael was making good money then, and it  
 [3] was actually a pretty happy, stress-free time for a  
 [4] year or so where I didn't need to work. We didn't  
 [5] need the income.  
 [6] Q: What are the factors that you say are now  
 [7] the stressful things in your life?  
 [8] A: Oh boy. As related to the accident? As  
 [9] related to my personal life? I mean, that's pretty  
 [10] personal.  
 [11] MR. HEALEY: If you don't  
 [12] understand, tell him. Off the record.  
 [13] (Whereupon, there was a discussion  
 [14] off the record.)  
 [15] A: Financially we have difficulty just in  
 [16] general with arguments, working out arguments, having  
 [17] children that's very defiant is one of the major  
 [18] stressors in my life and teenagers, on the other hand,  
 [19] and family that relies on us a lot, not working for us  
 [20] is a stress, and not being able to work and not having  
 [21] insurance.  
 [22] Q: When you say your family relies on you,  
 [23] for what kind of things?  
 [24] A: His father lives downstairs in an in-law  
 [25] apartment. His mother and brother he's very close to,

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[1] and they often need his support or help financially or  
 [2] otherwise. That can be stressful.  
 [3] Q: Is his mother deceased?  
 [4] A: No, no. I said his mother and brother  
 [5] often call. Just to be in support of them it can be  
 [6] stressful, just to be there for everyone that needs  
 [7] us.  
 [8] Q: Okay. The father and the mother are  
 [9] split?  
 [10] A: Separated, yeah, or divorced, I'm sorry.  
 [11] Q: Has Michael adopted your teenagers?  
 [12] A: No.  
 [13] Q: What are the arguments generally about  
 [14] when you have them?  
 [15] A: It's usually that I'm complaining about  
 [16] something that — if I bring up something I'm not  
 [17] happy with, and Michael doesn't like to hear, any kind  
 [18] of complaining — he doesn't handle criticism well or  
 [19] that kind of thing, so he considers me to be bitching  
 [20] or something like that, nagging, and he doesn't like  
 [21] it and maybe he's overwhelmed, I don't know, but just  
 [22] basically things that are not working or things that  
 [23] have come up, that's what we argue about, things that  
 [24] we are butting heads about. It's really hard. It's  
 [25] kind of a vague answer.

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[1] Q: How often do you two argue?  
 [2] A: Maybe once a week.  
 [3] Q: Before May of 2004 how often did you  
 [4] argue?  
 [5] A: Our first argument was after Ava was born,  
 [6] November of 2002, and I believe the next year or so we  
 [7] maybe had four or five arguments. It wasn't very  
 [8] much.  
 [9] Q: What were the arguments typically about if  
 [10] there was a typical argument?  
 [11] A: I think it kind of varied. Sometimes it  
 [12] was like, you know, if he stayed out late with friends  
 [13] or I couldn't go with my friends or something like  
 [14] that, I don't know, household things, you know.  
 [15] Q: Did the postpartum depression have  
 [16] anything to do with the arguments?  
 [17] A: Not so much the postpartum depression, but  
 [18] when my children wanted to live with their father, and  
 [19] we changed the custody arrangements, it was very  
 [20] stressful, and I think we didn't argue about it, but  
 [21] he would argue on my behalf to my ex-husband, and then  
 [22] that would make me argue with him so it wasn't a  
 [23] direct argument. It was some kind of indirect  
 [24] argument. Just in general just the stress of the  
 [25] custody and changing living arrangements.



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**April 12, 2007**

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[1] Q: After the accident in 2004 did you begin  
 [2] to have further or more frequent arguments?

[3] A: Yes, they definitely got more frequent.

[4] Q: When did they start to become more  
 [5] frequent?

[6] A: When he had to start buying another boat,  
 [7] and shopping for another boat with a 4-day-old baby,  
 [8] and when we had the stress of not knowing where we are  
 [9] going to get any money from. Even getting our dog was  
 [10] kind of an argument. You know, it varied, but  
 [11] definitely with more responsibilities, bigger bills,  
 [12] we hadn't made our first mortgage payment on the house  
 [13] when the accident happened. We bought the house 3  
 [14] weeks before we moved in, and we hadn't made our first  
 [15] payment, so I think anxiety about that, and, you know,  
 [16] raising kids and that kind of thing, which we usually  
 [17] agree about, it got a little bit more stressful.

[18] Q: Had the number of arguments that you have,  
 [19] have they increased over time —

[20] A: Yes.

[21] Q: — since the accident?

[22] A: Uh-huh.

[23] Q: And the frequency between arguments, has  
 [24] that also changed?

[25] A: Yes, and the intensity.

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[1] Q: So that you argue more now than you did  
 [2] shortly after the accident?

[3] MR. HEALEY: And enjoy it less.

[4] A: Yes.

[5] Q: And these are the issues that you've been  
 [6] trying to address with Dr. Aron?

[7] A: Yes.

[8] Q: And has he given you any kind of  
 [9] assistance?

[10] A: Yes. He's very helpful. He sees patterns  
 [11] in the way that we speak rather than just focusing on  
 [12] what we actually said. He'll say to Michael, "Do you  
 [13] see how she said that with a smile and a laugh?" or  
 [14] something like that, you know, and points out and  
 [15] brings out our strengths together and with  
 [16] communication definitely, but he can't help with the  
 [17] financial stressor, the no medical insurance stressor,  
 [18] any of that kind of thing so — I mean, he helps — he  
 [19] does help with feeling close, and having worked  
 [20] through a few things.

[21] Q: Does he give you any kind of things to  
 [22] work on at home as well?

[23] A: Not really, no, not really.

[24] Q: Is it a fair statement since you started  
 [25] to see Dr. Aron things are getting better?

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[1] A: Yeah, except we have just gone a long  
 [2] period of time without seeing him, and things  
 [3] definitely got worse, because we hadn't seen him in a  
 [4] while so we haven't been able to see him in a while.

[5] Q: You have an appointment with him coming  
 [6] up?

[7] A: No, but we'll probably have one for next  
 [8] week.

[9] Q: Have you seen any other kind of mental  
 [10] health professional or therapist, psychiatrist, any  
 [11] paraprofessionals?

[12] A: No.

[13] Q: Does Michael have a court date for the  
 [14] assault and resisting arrest charges?

[15] A: I believe April 30 is his next date. He  
 [16] had one already.

[17] Q: That was an arraignment?

[18] A: Yes.

[19] Q: What court is that, do you know?

[20] A: New London.

[21] Q: You mentioned before that Michael was not  
 [22] arguing appropriately. What did you mean by that?

[23] A: Well, he tends to like to be too  
 [24] physically close to me, and maybe sometimes even block  
 [25] me or have me in a corner, that kind of thing, just

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[1] physically dominant, and he swears, which I try not to  
 [2] do when we argue, and, you know, like name calling,  
 [3] just stuff that, you know, you want to try to fight  
 [4] without that.

[5] Q: You mentioned that the night of the arrest  
 [6] he had had too much to drink. Has Michael increased  
 [7] his alcohol consumption since the accident?

[8] A: For periods he did. That was not one of  
 [9] the periods. That was Super Bowl Sunday, but he has  
 [10] periods where he has increased his alcohol  
 [11] consumption, and then seems to be pretty cooperative  
 [12] when I say I think it's getting to be too much or  
 [13] other people say that. He is pretty good at, you  
 [14] know, either not drinking at all or just drinking  
 [15] socially or just cutting back. When he feels he needs  
 [16] to, he seems to recognize it. He definitely did for a  
 [17] time after the accident.

[18] Q: How long?

[19] A: Every day, you know, which was not like  
 [20] him before.

[21] Q: How long did that go on?

[22] A: I think 6 months or so where he was  
 [23] drinking really a lot more than usual, a lot  
 [24] regularly.

[25] Q: What was usual before the accident?

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[1] A: Maybe one or two beers one day and none  
[2] for five and, you know, three or four on the weekend  
[3] or something. It would kind of depend on the  
[4] situation where we were, if we were out. But then he  
[5] kind of increased his drinking every day, you know,  
[6] three or four.

[7] Q: To the point where —

[8] A: Not drunk, no, but just drinking after  
[9] lunch in the afternoon and evening, you know,  
[10] regularly.

[11] Q: How many drinks would he have in a typical  
[12] day?

[13] MR. HEALEY: Now or after the  
[14] accident?

[15] Q: For that 6-month period.

[16] A: For that 6-month period I was  
[17] uncomfortable with? We'll say if he had five or six  
[18] at the most spread out, you know, not usually — I  
[19] mean, I have not even really seen him drunk unless it  
[20] was New Year's, so, yeah, it would be five or six or  
[21] he and a buddy would go through a 12-pack so, you  
[22] know, something like that.

[23] MR. HEALEY: I don't call that  
[24] drinking.

[25] Q: You're Irish.

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[1] A: Super Bowl Sunday he did shots, and that's  
[2] just a killer for him. He can't do shots; probably  
[3] three times since I've known him he's ever done shots,  
[4] and done shots like that so it's not a regular thing  
[5] for him.

[6] Q: The antidepressants that you were taking  
[7] between the period 6 months after Madelyn was born up  
[8] until April of 2006, that period of about 2 years, do  
[9] you attribute taking those antidepressants to the  
[10] accident involving the Ava Claire?

[11] A: Yeah, yeah.

[12] Q: How so?

[13] MR. HEALEY: I don't understand the  
[14] form, how so.

[15] Q: To what do you attribute the need for the  
[16] antidepressants in connection with the Ava Claire?

[17] A: I was worried a lot more and anxious a lot  
[18] more. You know, I was depressed when we couldn't pay  
[19] our bills or we had things that were late and just not  
[20] knowing. You know, something that we put all our  
[21] money into was at the bottom of the ocean, and the  
[22] fact that he still had to go back and fish. Actually,  
[23] he mentioned that was one of the things we argued  
[24] about. I kind of was hoping he might not go back to  
[25] it, but depression definitely from, you know, worry

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[1] and anxiety, and not feeling like I could talk to  
[2] Michael very much about it. He wasn't very receptive  
[3] to talking about the accident or talking about how  
[4] it's affecting us, and talking about our problems, and  
[5] not being able to, you know, to have that sounding  
[6] board or whatever.

[7] Q: Did you discuss these issues with Dr.  
[8] Davis?

[9] A: Yes.

[10] Q: How often?

[11] A: About once a month.

[12] Q: When Dr. Davis prescribed the  
[13] antidepressants, did she give you a prescription for a  
[14] one-month dosage or was it one month renewable or tell  
[15] me how it went?

[16] A: It was one month for three pills, but I  
[17] could cut it in half, because it was cheaper with no  
[18] insurance. I would get the higher dose, and cut them  
[19] in half, but it was actually 2 months, but it was with  
[20] refills, I believe, for maybe 6 months refills, so I  
[21] didn't have to call her very often for refills.

[22] Q: But you would see Dr. Davis on a monthly  
[23] basis even though you didn't need to get a refill?

[24] A: I didn't see her. I spoke with her.

[25] Q: On the telephone?

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[1] A: Yes.

[2] Q: Did you contact her or did she contact  
[3] you?

[4] A: Usually I contacted her.

[5] Q: Was there a set period of time that you  
[6] would contact her?

[7] A: No; just if I felt like I needed — if  
[8] something had changed in the medication or in my life  
[9] that I felt was relevant to her helping me, and then I  
[10] got pregnant with Madelyn not long after that, so I  
[11] was seeing her anyway for OB stuff and all that.

[12] Q: Did you and Michael have to borrow money  
[13] following the accident?

[14] A: Yes.

[15] Q: How much did you borrow?

[16] A: We borrowed \$8,000 from his father, and I  
[17] believe we owe my father about \$1,800, and then we  
[18] took out another loan for the boat and expenses.

[19] Q: Have you repaid those loans?

[20] A: No.

[21] Q: None of them?

[22] A: No.

[23] Q: You were hoping Michael wouldn't return to  
[24] fishing. What did you anticipate that he would do for  
[25] a job as opposed to fishing?

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[1] A: Well, I asked him that once when we were  
[2] dating, and he could not imagine anything but fishing,  
[3] and I asked him, "Well, what if you lost an arm or  
[4] something?" He said he would fish with one arm, so I  
[5] pretty much should have known that there wasn't  
[6] anything else, you know. I tried to talk to him  
[7] about, you know, he's a great builder. Maybe building  
[8] decks or try to talk to him about something and, you  
[9] know, he's just not comfortable starting into  
[10] something that is not really his passion.

[11] Q: Did you or he take any steps to actually  
[12] explore alternative sources of employment?

[13] A: I think he talked to some people, you  
[14] know, a few friends that are self-employed, offered  
[15] him, you know, this or that, but not in-depth, because  
[16] he was — he knew the permit was valuable. He knew  
[17] the monkfishing was profitable, and he wanted to go  
[18] right back to it. I mean, he was hoping that he could  
[19] get a good mate to kind of run it for him, so he would  
[20] not have to go as often or even at all. You know, he  
[21] was kind of hoping to be one of those boat owners,  
[22] those nice, wealthy boat owners that we know that have  
[23] someone captain it for them. He thought it would be  
[24] temporary, and he knew he had to to support us.

[25] MR. HEALEY: If you keep adding

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[1] those little drips and drabs —

[2] A: They are emotional questions and I —

[3] MR. HEALEY: I know.

[4] Q: Did you or Michael ever talk to any  
[5] members of the clergy concerning the accident?

[6] A: No. I had a very bad religious experience  
[7] in the past.

[8] MR. HEALEY: Nobody asked you that.

[9] A: I'm sorry.

[10] MR. HEALEY: Off the record.

[11] (Whereupon, there was a discussion  
[12] off the record.)

[13] Q: You ever meet with Dr. Small?

[14] A: No, I have never met him.

[15] Q: Michael ever talk about his sessions with  
[16] Dr. Small?

[17] A: Briefly; not in great detail.

[18] Q: What has he told you about his sessions  
[19] with Dr. Small?

[20] A: He said that he liked her, and he felt  
[21] comfortable talking to her, and upon my questioning I  
[22] didn't want him to feel like he had to tell me, so  
[23] that was pretty much all I asked; did he feel it was  
[24] helping; did he feel comfortable. Because you can  
[25] keep looking for someone else if you want. I didn't

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[1] want to pry. I actually found out more at his  
[2] deposition about what he talked about. That was news  
[3] to me.

[4] Q: If I remember correctly, Attorney Stevens  
[5] gave Michael Dr. Small's name. Is that your  
[6] understanding?

[7] A: Yes.

[8] Q: How many times did Michael visit with Dr.  
[9] Small?

[10] A: I'm not sure.

[11] Q: He started meeting with her about a month  
[12] after the accident; is that right?

[13] A: Yes, that's right.

[14] Q: And he was supposed to or the plan was he  
[15] was going to see her regularly; is that right?

[16] A: Yes. He started out once a week.

[17] Q: But then he went back to fishing, and that  
[18] sort of put the kabosh on things just like Dr. Aron?

[19] A: Yes.

[20] Q: Hard to schedule these doctors when he's  
[21] out on the boat, right?

[22] A: Right.

[23] Q: Let me refer you to what we've marked as  
[24] Exhibit 38 for identification. This is the medical  
[25] expenses sheet that you prepared.

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[1] A: Okay.

[2] Q: And it indicates that there were a total  
[3] of 14 visits with Dr. Small; is that correct?

[4] A: Yes.

[5] Q: And when was the last visit, do you know?

[6] A: Well, it says 12/27/04 so I would assume  
[7] that must be his last visit.

[8] Q: Did Michael pay Dr. Small when he went to  
[9] see her?

[10] A: Yes, originally at full price and then at  
[11] half price.

[12] Q: And you have copies of those checks?

[13] A: Yes.

[14] Q: I assume you paid by check?

[15] A: Yes.

[16] Q: And would you provide Mr. Healey with  
[17] copies of those?

[18] MR. HEALEY: This is payments to Dr.  
[19] Small?

[20] Q: Yes. And you would pay her on the days of  
[21] the visits?

[22] A: Yes.

[23] Q: May I have that back, please?

[24] A: Sometimes he would pay the two visits in  
[25] one.